

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT

FOURTEENTH

**ANNUAL REPORT
of the
Massachusetts Commission
Against Discrimination**

December 1, 1958 - November 30, 1959



MILDRED H. MAHONEY, *Chairman*

WALTER C. CARRINGTON, *Commissioner*

BEN G. SHAPIRO, *Commissioner*

WALTER H. NOLAN, *Executive Secretary*

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Boston, Massachusetts**

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FOURTEENTH ANNUAL REPORT OF THE MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION INTRODUCTION

With Liberty and Justice for all . . .

Not a new thought in the USA. Not an unexpressed thought. But a difficult thought to translate into concrete manifestations. This process of translation is attempted in many ways. Preachers preach it. Teachers teach it and even the law gets into the act!

In Massachusetts we have a wisely drawn law. It provides for enforcement and education. Because it is wisely drawn it has been widely accepted. The scope of the Commission has grown immensely since its single beginning as the Massachusetts Fair Employment Practice Commission in 1946. Now discrimination is outlawed in four fields — employment, education, public accommodations and housing; six amendments have been passed in fourteen years strengthening and widening the application of the original law. This couldn't have happened against public opinion.

Our General Court has voted these amendments giving to Massachusetts more laws to enforce than any other state in the union. That is a grave responsibility. It is also an evidence of confidence in the wisdom and fairness of the Commission, a confidence which the Commission earnestly hopes will always be maintained.

The following report explains first in summary form and then in more detail the accomplishments of last year.

The members of the Commission are deeply grateful to the many people and agencies that through their cooperation have helped so greatly.

SUMMARY OF COMMISSION ACTIVITIES

This report covers Commission activities for the period from December 1, 1958 to November 30, 1959.

The Commission received and processed 301 matters involving discrimination based on race, color, religious creed, national origin, age or an estry.

The Commission staff contacted officials of 664 business concerns throughout the Commonwealth.

The purpose of these conferences was to minimize the possibilities of violation of the law by offering instructions, interpretations, answers to specific questions and general information pertaining to the statutes; to review employment application forms and hiring policies and to obtain compliance with that section of the law which requires the posting of the summary of the law in a conspicuous place on the premises.

Of the 664 employers conferred with, 130 were found to have unlawful inquiries on employment application forms. For the most part the unlawful inquiries dealt with the age of the applicant, however, there were two which made inquiry into color and 15 into national origin.

546 notices of possible violation of the fair employment practice law in help-wanted advertisements were sent to employers and employment agencies.

Sixteen employers requested exemption from the law. All of the exemption requests were refused for lack of sufficient evidence to warrant the granting of an exemption.

The Commission annually reviews the advertising materials used by hotels and motels, as authorized by the Public Accommodations statute.

This year the advertising material of 1029 places of public accommodations were examined. In no instance was there found to be any language implying restrictions because of race, color or creed.

To each hotel and motel located in the resort areas of the Commonwealth there was mailed an official poster prepared by the Commission which must be displayed in a conspicuous place on the premises.

Staff members visited the police departments of eighty-five (85) cities and towns conferring with the Chiefs of Police concerning the public accommodations statutes and its provisions. Copies of the law as well as explanatory literature were distributed to the police personnel.

Conferences were held with officers of fifty-nine (59) Chambers of Commerce. The purpose of these conferences was to acquaint the officials with all of the civil rights statutes presently being administered by the Commission. Commission literature was made available for distribution to the membership of the various Chambers.

Five thousand copies of a specially prepared brochure on the newly enacted private housing law were distributed to its membership by the Massachusetts Real Estate Board. Hundreds of other copies were distributed by private organizations especially interested in the passage of this law.

A study was made of the tenant selection policy of ten (10) Public Housing Authorities. This study has been made for three consecutive years on the same ten Housing Authorities and in another section of the report there will be demonstrated the degree of integration of whites and non-whites in public housing.

The Commissioners and staff filled 116 speaking engagements and conducted or attended 251 conferences throughout the Commonwealth. In addition to this the Commission held semi-annual meetings with each of the eight Councils.

In addition to those who filed complaints 410 individuals visited the Commission office to make inquiries concerning their rights and obligations under the provisions of the Civil Rights statutes.

A survey of application for insurance forms issued by 300 companies licensed to do business in the Commonwealth was begun to determine to what extent inquiries into race, color, religion or national origin are made on these forms.

FAIR EMPLOYMENT PRACTICE LAW

Complaint

Despite the expansion of Commission jurisdiction regarding complaints the majority of them relate to employment situations and usually to difficulty in getting a job. The case illustration that follows however illustrates a less usual but equally culpable type of discrimination:

On March 30, 1959 a woman filed a complaint against a restaurant chain alleging unlawful discrimination in employment because of her religious creed.

The complainant had been employed as a counter-girl by respondent for two years.

About three months prior to filing the complaint respondent had occasion to hire a new manager for the section in which the complainant worked as well as another counter-girl.

The new employees proceeded to harass complainant, making slurring remarks concerning her co-religionists, shoving and tripping her while she was carrying stacks of dishes.

Calling for a showdown with the manager she asked why she was being subjected to this treatment. According to the allegations the section manager told her that the reason for the treatment should have been obvious, she was Jewish.

Complainant reported the situation to the store manager. She reminded him that she had talked to him on a previous occasion concerning the treatment she was getting from her immediate supervisor and one other employee. Not obtaining any satisfaction from the store manager, complainant resigned.

Complainant applied to the Division of Employment Security for unemployment benefits. Her claim was denied but she was referred to the Commission.

The allegations were investigated and the facts obtained brought to the attention of top management within four hours of the complaint being filed.

Respondent sent a letter to the Division of Employment Security withdrawing its objection to complainant's request for unemployment benefits declaring that complainant had been forced to quit.

In addition respondent sent termination notices to complainant's supervisor and the other employee who had created the situation.

Complainant was offered her job back but declined. She accepted employment elsewhere. (XIV-17-RC).

Investigation

Besides handling cases ordinarily based on the complaints of individuals the Commission will conduct investigations if asked to do so by a reputable agency offering alleged evidence of discrimination. The following investigation illustrates procedure in such an instance:

On April 10, 1959 the National Association for the Advancement of Colored People, Boston Branch, and the Ministerial Alliance of Greater Boston submitted a written request to the Commission to investigate the employment policy of the Boston American League Baseball Company. A similar request was submitted by the American Veterans Committee of Massachusetts, Incorporated.

The call for an investigation was precipitated by the dropping of a Negro player, Elijah "Pumpsie" Green, from the Red Sox roster just prior to the break up of spring training.

On April 14, 1959, at the weekly meeting of the Commission, officials of the NAACP, Ministerial Alliance of Greater Boston and the American Veterans Committee presented what facts they had on the hiring policy of the Boston Red Sox. The Commission announced at the conclusion of the meeting that it would meet with officials of the Red Sox and set April 21, 1959 as the date. On April 21, 1959 the business manager of the Red Sox met with the members of the Commission. Both meetings were open to the public and were covered by the press in compliance with the newly enacted "open meeting law," Chapter 30A, Section 11A of the General Laws.

The following day, April 22, 1959, the Commission made known its decision to investigate fully the charges against the Red Sox.

On May 2, 1959 a tentative proposal to resolve the entire matter was outlined to officials of the Red Sox.

On May 26, 1959 final agreement was reached and a signed statement from the general manager of the Red Sox was entered into the record.

The agreement with the Red Sox contained the following items:

1. The general manager or business manager will during the coming year, make a trip to Scottsdale, Arizona, to obtain guarantees that suitable non-segregated accommodations will be available for all members of the Red Sox during future spring training sessions.
2. Records of Red Sox instructions to their scouts of the team's non-discriminatory policy and the activities of these scouts in scouting Negro prospects will continue to be made available to the Commission at its request.
3. The Red Sox offer an equal opportunity to all to apply for employment and all applicants will be considered on a non-discriminatory basis.

A little over a month later, in July, the Red Sox called up from their Minneapolis Class AAA farm team Elijah "Pumpsie" Green and Earl Wilson, a Negro pitcher, who had been released from the Armed Services during the spring training season. (Investigation No. 743-C).

Age

This year the Commission was asked to prepare a report for the Senate Subcommittee on Problems of the Aged and Aging. This Subcommittee was conducting a nation-wide survey. The report submitted by the MCAD appears on pages 25-32.

PUBLIC ACCOMMODATIONS LAW

Massachusetts, as the Department of Commerce announced in its tourist brochure this year, is the "vacationland for all." Visitors to the Commonwealth rarely find

accommodations in public places of resort or amusement denied to them because of their ethnic or religious background. The Commission carries on a continuous educational program with these establishments. Field Representatives of the Commission visited newly opened places on Cape Cod this year and acquainted them with the Public Accommodations law.

Typical of the types of complaints filed with the Commission are the following:

Beauty Parlor

A young Negro girl seeking to have her hair cut and styled as a result of an appointment made over the phone by her mother was refused service by the respondent beauty salon. When her mother asked the proprietor the reason for the refusal she was told that her daughter's hair was not the same as that of other people. Investigation by the Commission revealed that the beauty parlor had a long standing policy of discouraging colored customers. The shop's employees had been instructed to ignore Negroes who came to the salon seeking service. They would be left to sit and wait until they became tired and left.

The case was conciliated on the following terms:

1. "That the owners of the beauty salon agree to serve all persons seeking service in their establishment to the best of their ability without any distinction, discrimination or restriction based on religion, color or race.
2. "That all personnel of the salon be instructed in reference to the provisions of the Public Accommodations law and instructed to comply with same; and 3) that a summary of the law be posted in a conspicuous place visible to the public as well as the salon personnel." (PVIII-12-C).

Barbershops

A number of cases were filed with the Commission alleging discrimination against Negro customers by barbershops in various parts of the Commonwealth but most frequently in the Berkshire County area.

Two of these cases involved a student and a teacher at a private secondary school. After an investigation of the charges the Commission's field representatives visited all barbershops in the town instructing them on the public accommodations law and requiring them to post the Commission poster.

Privately Owned Beach

A Negro Air Force Sergeant and his family finding a municipally owned beach overcrowded sought admittance to a nearby beach owned by a private individual. A sign at the entrance to the property announced that members of the public could swim and camp on the property upon the payment of a prescribed fee. The sign also stated "we reserve the right to refuse anyone at any time." As soon as the sergeant attempted to enter the premises he was met by the owner who informed him "we don't cater to colored, we have campers in the area and don't want colored here." An on-duty policeman who was supervising traffic at respondent's beach informed the airman that it was private property and that he would have to leave.

During the Commission's investigation the owner raised the defense that the beach was private property. The investigating commissioner ruled however that a beach privately owned which was open to the public upon the payment of an admission and parking fee was a place of public accommodation within the civil rights laws of the Commonwealth. The owner agreed to remove the restrictive language from the sign and to accept the patronage of all persons without limitation because of race, color, or religious creed. (PVIII-8-C).

Real Estate Agencies

In response to an inquiry from the Commission the Attorney General ruled that a real estate agency is a place "which is open to and accepts or solicits the patronage of the general public" within the meaning of the Public Accommodations Law and therefore may not "refuse to offer its services to any person or refuse to accommodate any person as a client because of his race, creed or color."

On October 6, 1959 the Commission wrote to the Attorney General for an opinion. On November 24, 1959 the Attorney General replied to the Commission as follows:

"You indicate that the Commission Against Discrimination has before it affidavits filed against two real estate agencies alleging discrimination because of color. One

affidavit concerns the rental of an apartment in a two-family house owned and managed by a real estate agency which manages and owns a large number of such properties throughout the Commonwealth. Because, however, the house in question is not contiguous to eight other rental units controlled by the respondent it is not covered by the recently enacted 'fair housing law'. (C. 239 of the Acts of 1959)

"The second affidavit was filed by the owner of a single family dwelling. He alleges that a real estate agency refused to show his house to prospective Negro buyers.

"You further indicate that your Commission anticipates that it will continue to receive affidavits alleging discriminatory practices by real estate agencies regarding properties not covered by the housing amendment to the Fair Housing Practice Law.

"You request, therefore, my opinion on the following question:

'Would the Commission in accepting jurisdiction under the Public Accommodations Law of complaints filed against real estate agencies which allege discrimination because of religion, color, or race be abusing its discretion or acting arbitrarily or capriciously or otherwise not in accordance with law?'

"Under G. L., C. 151B, as amended, the Commission Against Discrimination is vested with jurisdiction of the 'Public Accommodations Law' so-called. That law is found in G. L., C. 272, ss. 92A and 98.

"Section 92A reads:

Places of Accommodation or Resort Not to Discriminate Because of Sect, Creed, Class, Race, Color or Nationality.

No owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement shall, directly or indirectly, by himself or another, publish, issue, circulate, distribute or display, or cause to be published, issued, circulated, distributed or displayed, in any way, any advertisement, circular, folder, book, pamphlet, written, or painted or printed notice or sign, of any kind or description, intended to discriminate against or actually discriminating against persons of any religious sect, creed, class, race, color, denomination or nationality, in the full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by such places of public accommodation, resort or amusement; provided, that nothing herein contained shall be construed to prohibit the mailing to any person of a private communication in writing, in response to his specific written inquiry.

A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and shall be deemed to include any place, whether licensed or unlicensed, *which is open to and accepts or solicits the patronage of the general public* and, without limiting the generality of this definition, whether or not it be (1) an inn, tavern, hotel, shelter, roadhouse, motel, trailer camp or resort for transient or permanent guests or patrons seeking housing or lodging, food, drink, entertainment, health, recreation or rest; (2) a carrier, conveyance or elevator for the transportation of persons, whether operated on land, water or in the air, and the stations, terminals and facilities appurtenant thereto; (3) a gas station, garage, retail store or *establishment, including those dispensing personal services*; (4) a restaurant, bar or eating place, where food, beverages, confections or their derivatives are sold for consumption on or off the premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming pool; (6) a boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting place or hall, including the common halls of buildings; (8) a place of public amusement, recreation, sport, exercise or entertainment; (9) a public library, museum or planetarium; or (10) a hospital, dispensary or clinic operating for profit; provided, however, that no place shall be deemed to be a place of public accommodation resort or amusement which is owned or operated by a club or institution whose products or facilities or services are available only to its members and their guests nor by any religious, racial or denominational institution or organization, nor by any organization operated for charitable or educational purposes.

Any person who shall violate any provision of this section, or who shall aid in or incite, cause or bring about, in whole or in part, such a violation shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days or both. (1933, 117; 1953, 437, appvd. June 2, 1953; effective 90 days thereafter.) (Emphasis Supplied)

"Section 98 reads:

Religion, Color or Race Discrimination Penalized.

Whoever makes any distinction, discrimination or restriction on account of religion, color or race, except for good cause applicable alike to all persons of every religion, color and race, relative to the admission of any person to, or his treatment in, any

place of public accommodation, resort or amusement, as defined in section ninety-two A of Chapter two hundred and seventy-two, or whoever aids or incites such distinction, discrimination or restriction, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year or both, and shall forfeit to any person aggrieved thereby not less than one hundred nor more than five hundred dollars; but such person so aggrieved shall not recover against more than one person by reason of any one act of distinction, discrimination or restriction. All persons shall have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. This right is recognized and declared to be a civil right.

"Although to date 24 states have enacted Public Accommodations Laws similar in their scope to the Massachusetts laws, inquiry and research have uncovered no decided court cases bearing on the issue herein posed. However, the Connecticut Commission on Civil Rights, on December 15, 1955, ruled that under its interpretation of the Connecticut Public Accommodations statute a real estate agent is covered under the definition of a place of public accommodation as 'an establishment which caters or offers its services or facilities or goods to the general public' within the meaning of that law.

"It is significant that in the four years that have elapsed since the promulgation of the Connecticut ruling there has been no challenge to it in that State.

"Obviously, a real estate agency is a ' . . . place which is open to and accepts or solicits the patronage of the general public . . .', and it may well be that a real estate agency is an 'establishment' in the business of 'dispensing personal services'. Finally, a real estate agency does not come within the clearly defined exceptions of a private club or a religious, racial, denominational, charitable or educational use set out in the Massachusetts statute.

"In view of the wording of our Public Accommodations statute, both standing alone and in the context of the broad and long-standing public policy established by the Mass. General Court to prohibit racial, religious and ethnic national discrimination, it would seem, and I so rule, that it is a violation for a real estate agency to refuse to offer its services to any person or to refuse to accommodate any person as a client because of his race, creed or color."

FAIR EDUCATION LAW

The educational institutions of Massachusetts, especially those engaged in academic and technical training at the secondary school level and beyond, are already beginning to feel the pressure from the rising tide of applicants for admission. In spite of added requirements of standard tests and increased tuition costs, the number of those seeking admission is far in excess of available accommodations both in class rooms and dormitories. Consequently there are thousands of disappointed students and parents as the process of selection becomes increasingly more difficult. Choices must be made in admission offices from large numbers of candidates of seemingly equal ability and promise.

The MCAD has continued its study of the procedures in the admission offices of institutions in the State. A review of the catalogues and admission blanks as well as "follow-up letters" indicates that the schools have eliminated all of the questions which the Commission has ruled were seeking discriminatory information. Although some schools were reluctant to forego the request for photographs, this ruling was accepted by all institutions during the past year. Two colleges which were found to be "using up" a supply of old application blanks agreed to cross out the photograph request until new blanks could be printed. A large number of institutions have cleared their changes in blanks with the Commission.

When ruling that the request for a photograph constituted a possible written inquiry into race, religion, color, or ethnic origin of an applicant, the Commission asked for and received the full cooperation of all schools in the State. Moreover, the Commission agreed, after a suitable trial, to review with any schools their experiences in doing without photographs while making admission selections. This may well be done in another year. Meanwhile it has been interesting to receive reports from admission offices that all were relying more and more on personal interviews and scores in entrance examinations, and that they were using other methods to aid in recall and identification. One Director of Admissions laughingly admitted

that he had been told that the Freshman Class this year, without recourse to photographs, was the best-looking one in many years!

Only two petitions alleging discrimination under the Fair Educational Practices Act have been brought to the attention of the Commission. In neither of these was there found just cause for a complaint. Several students who experienced admission difficulties have come to our office for advice and help. We have investigated these cases and have offered suggestions for placement, since we have kept in touch with the enrollment figures of various institutions. An analysis of enrollments in schools and colleges in Massachusetts indicates that no school is closing its doors to applicants from minority groups. It is the belief of the Commission that no worthy student will be denied admission in this State because of his race, religion, color or ethnic origin.

Societies and Fraternities

From time to time the attention of the Commission has been called to the practices of certain national Greek letter fraternities in making discrimination on racial or religious grounds. Several colleges, including the State University, have taken official steps to prevent the fostering of a fraternity whose charter was bound by a tie-in with the national body which would require such discrimination in the selection of members. The Commission approves of such official action. In several cases the students themselves have taken the initiative and withdrawn from national affiliation to form local chapters which were at once free from any discriminatory requirements.

In some colleges, such as Amherst and Williams, membership in a fraternity is offered to every student on campus at least by the end of his second year. It is gratifying to record that in such institutions we have found that race, religion or color do not prevent a student from being admitted into fraternal friendships. In other colleges membership may be available to a fraction of the total enrollment and in such colleges selection may become of social importance. The Commission will continue to encourage democratic practices in all of the institutions of the State with the objective of fair practices in fraternity elections.

The Commission was asked to investigate one of the city high schools in the Greater Boston area where it was charged that societies were operating which were discriminating in membership on religious grounds. In the instance called to our attention it was found that the societies were open to membership to any student who had the required academic standing, under by-laws and constitutions approved by the school authorities. However, one of the four societies investigated had become filled with girls who were all of the same religious faith — this by usage and not by requirement. The authorities in this high school have taken steps to encourage the abandonment of the practice and are leaving the matter in the hands of the teacher advisers and student members for a year to avoid a fiat if possible. So-called secret or Greek letter societies which once flourished in many Massachusetts high schools are not prohibited by law. Each local community through its School Committee makes its own decision. It was found that pretty generally school authorities have banned such secret societies and they do not exist with any official recognition, cannot meet in school buildings and have no teacher supervision.

Colored Teachers in Training

The Commission was called to investigate three public school systems where it was charged that applicants for teaching positions were being discriminated against on account of race or color. In the three systems which we investigated it was found that there was a willingness to hire colored teachers when they have sufficiently high rating in the national Teachers' Examinations or can show other suitable qualifications in a competitive field. Teachers of Jewish faith appear to be freely hired in public school systems without reference to or concern for their religious affiliations. The apparent lack of a sufficient number of well-qualified colored teachers caused us to turn to the training schools in the state.

It was found that the ten colleges for teachers had non-discriminatory policies for admission. They are taking a larger percentage of the colored students who make application for admission than from any other group. The colored graduates are quickly placed although some of these graduates are going to teach in other states. The enrollment figures of the Teachers Colleges were studied with a view to finding

out if there is any change in the number of colored students who have applied for and been admitted into membership.

There has been a slight increase in the number of colored students attending these ten colleges according to fall enrollment figures. Out of 2941 new enrollments this year, 54 were colored or 1.9%. In 1957-58 the figure was 1.7%. The number of colored students applying for admission was about the same in both years but the total number of applicants was considerably more this year than in 1957-58. Figures on the total number applying for admission were not entirely reliable since many applicants are not available for interviews and the admission offices employed no way of knowing the color of applicants until they were finally admitted. Other Schools of Education such as those at Boston and Harvard Universities have approved policies of admission under the FEPA. These schools train teachers for secondary school teaching and beyond. Here, again, the number of colored students enrolled in training programs is less than 2% of the total enrollments.

HOUSING LAWS

Private Housing

Massachusetts continues to make steady progress towards the total elimination of discrimination in employment. Yet many of the beneficiaries of the Fair Employment Practice Law are constantly frustrated in their attempts to use their increased earnings to secure decent shelter for themselves and their families beyond the confines of all Negro neighborhoods. As the United States Commission on Civil Rights recently pointed out, housing is the one commodity on the American market that is not freely available on equal terms to everyone who can afford to pay for it. It has been estimated that of all new housing built since the beginning of the post war boom less than one percent of it has been available to Negroes with most of that one percent found in the South in segregated developments.

The MCAD has been powerless in the past to grant relief to those citizens who have complained to it of discriminatory practices in the field of private housing. Its enforcement jurisdiction was limited to public and publicly assisted housing accommodations. When, in 1950, the Commission was authorized to enforce the anti-segregation provisions of the public housing law, it encountered a pattern of almost total segregation in public housing units in the Commonwealth. Today there is no such development from which Negroes are barred. It is to be hoped that a similar pattern of change in private housing developments may be reported in our subsequent annual reports as a result of the new private housing law passed this year.

Chapter 239 of the Acts of 1959 makes it an unfair housing practice for "the owner, lessee, sublessee, assignee or managing agent of publicly assisted or multiple dwelling, or contiguously located housing accommodations or other person having the right of ownership or possession or right to rent or lease such accommodations:

- "(a) to refuse to rent or lease or otherwise to deny to or withhold from any person or group of persons such accommodations because of the race, color, creed or national origin of such person or persons;
- "(b) to discriminate against any person because of his race, creed, color, or national origin in the terms, conditions or privileges of such accommodations or in the furnishing of facilities or services in connection therewith; or
- "(c) to cause to be made any written or oral inquiry or record concerning the race, creed, color or national origin of a person seeking to rent or lease any such accommodation."

A multiple dwelling is defined as "a dwelling which is usually occupied for permanent residence purposes and which is either rented, leased, let, or hired out, to be occupied as the residence or home of three or more families living independently of each other."

Contiguously located housing is defined as —

- "(1) housing which is offered for sale, lease, or rental by a person who owns or at any time has owned, or who controls or at any time has controlled, the sale of ten or more housing accommodations located on land that is contiguous (exclusive of public streets), and which housing is located on such land, or
- "(2) housing which is offered for sale, lease or rental and which at anytime was one of ten or more lots of a tract whose plan had been submitted to a planning board as required by THE SUBDIVISION CONTROL LAW . . ."

Appearing at a public hearing before the joint committee on Mercantile Affairs of the General Court the Attorney-General of the Commonwealth, Edward J. McCormack, Jr., delivered the following statement in support of H.1209 which was signed into law by Governor Foster Furcolo on April 22, 1959 and which became effective on July 21, 1959 as Chapter 239 of the Acts of 1959:

"Massachusetts is a state whose panoply of laws guaranteeing equal opportunity of its citizens irrespective of race, creed, color or national origin is surpassed by none and equalled by few. Certainly, it is a source of intense personal gratification to me to be Chief Law Officer of a jurisdiction whose statutes embody so exalted a public policy.

"However, there is one — perhaps the most vital — area of living to which this guarantee has not yet been extended by law. I refer, of course, to private housing without public assistance. So long as black belts, ghettos, 'gentlemen's agreements,' and 'protective associations' flourish, and indeed grow, we still have our work to do. For these conditions are stark reminders that for numbers of our citizens a great deal of distance still lies between the ideal and reality of equal treatment under the law.

"Now there are many ways to deal legislatively with problems of discrimination, but I am convinced that the most appropriate one is to continue in the tradition of steady, restrained and eminently reasonable statutory extension of civil rights laws that has obtained in Massachusetts since the passage of the F.E.P.C. Act in 1946. In this way, public acceptance militates to combine with effective administration to produce workable law. This is law-making in the most responsible sense of the term.

"Of the three bills filed this year to outlaw discrimination in private housing without public assistance, I feel that the one which most satisfies this formulation is H. 1209. H. 1209 is in no sense a radical departure from existing law; rather it embodies a modest but logically inexorable extension of existing law. And it does it in a fashion which makes the legislative intent unambiguous.

"H. 1209 basically deals with commercial housing on a very broad basis and thereby avoids most of the psychological and, I feel, all of the constitutional problems that conceivably arise where non-commercial single units are involved.

"In respect to the constitutional problem, if any, I am satisfied that there is abundant legal precedent to show that the police and welfare considerations implicit in H. 1209 justify such restrictions as the bill may impose on freedom of contract.

"In light of these conclusions, I respectfully suggest that the public policy of this Commonwealth and the needs of its citizens will be greatly served by your favorable recommendation of H. 1209."

The new law covers an important segment of the private housing market in Massachusetts. It applies to all homes in housing developments of ten or more units built since 1954. It applies not only to the sale of the home by the original developer but to its sale by all subsequent owners. All apartment houses in the Commonwealth come under the law as do those three decker houses in which the owner does not reside. Lending institutions and real estate agents may not aid or abet the doing of any of the acts which the law proscribes.

To aid the home buyer seeking housing accommodations not now covered by civil rights legislation, private citizens in a number of localities have organized themselves into Fair Housing Committees. They are working to create an open market in their communities where all citizens may bargain on an equal basis with whites for housing. They have circularized good neighbor pledges of which the following is typical:

"In a democracy it is fundamental that all have equal opportunity. This principle is often denied when members of minority groups are not allowed to buy or rent housing. The essential richness of our country rose out of the free non-segregated sharing of life and thought of people of varied faiths and races and we cherish this democratic way of life for ourselves and for our children. Therefore, we the undersigned residents of Newton, declare our support of a policy to make housing available to all people of good character without discrimination as to race, religion or national origin."

In addition they have built up lists of resident owners willing to sell their homes on a non-discriminatory basis. They offer to aid Negroes and other minority group members seeking homes in their community by house hunting with them and by carrying on educational campaigns among their neighbors.

The Commission is encouraged by the growth of these committees in Arlington, Brookline, Cambridge, Natick, Needham, Newton, North Wilmington, Sharon, Sudbury, Wayland and Wellesley. To citizens elsewhere who ask what they individually

can do to help the work of anti-discrimination we commend the formation of such committees.

In the four months in which the fair housing law has been in operation there have been heartening instances of its effectiveness of which the following are illustrations.

1. Two secretaries, one Negro and one white, sought to share an apartment together. The white girl filed an application and deposit with the respondent real estate agent who asked that her prospective roommate come to the office in person to fill out an application. Within twenty-four hours after the Negro girl appeared their applications and deposits were returned to them. The agency informed them that the apartment for which they applied had previously been rented by one of the agency's other offices.

Investigation revealed that the agency had misrepresented the rental date. The apartment was in fact available on the date on which the girls applied and was not rented until two days after their applications were returned.

The agency agreed to offer immediately a comparable apartment to the two girls and to instruct its staff on the provisions of the fair housing law. (PrH-I-9-C).

2. While the foregoing case was being investigated two Negro women applied for an apartment in another building managed by the above-mentioned respondent. They were shown an apartment by the building superintendent and referred by him to the real estate agency.

Their application and deposit were accepted and they were told that they would hear further as to their acceptability as tenants. Two days later they called the rental office and were told that their application had been rejected in favor of one received a day after they had applied. To their inquiry as to why the later applicant was preferred they received no answer.

Investigation revealed that the agency regarded the credit and personal references of both women to be excellent. It was also shown that no other application for the apartment had been received. As in the preceding case they agreed to offer an apartment to the complainants. (PrH-I-10-C).

3. A young man alleged that upon the owner of an apartment building learning he was Jewish, the rental deposit he had made on an apartment was returned and his application rejected. He was told by the real estate agent who had originally shown him the apartment that he had been told by the owner that the apartment had been previously rented out by the owner himself. A week later the complainant saw a newspaper ad offering for rent what appeared to be the same apartment.

Upon investigation by the Commission it was clear that there was no violation of the law by the agent. He had in good faith processed the complainant's application and forwarded it to the owner. When informed that there was a right of first refusal outstanding on the apartment he secured another for the young man.

The owner explained the later newspaper ad had been placed because the person who had the right of first refusal withdrew his application after the complainant's deposit had been returned. Before further investigation was undertaken by the Commission the owner agreed to offer the complainant his pick of three available apartments in the building.

4. A week after she moved into her apartment, a light-complexioned Negro woman was visited by her darker-skinned daughter. Neighbors complained to the landlord who in turn informed the woman that he did not want his tenants receiving Negro guests in his building. When told that the visitor was the tenant's daughter, he informed her that he would never have rented her the apartment had he known she was Negro. A notice was then attached to her rent receipt informing her that her rent was to be raised. The efforts of the woman's parish priest to intercede with the landlord were unsuccessful. Several days later she was visited by the sheriff carrying a letter from the landlord's lawyer asking her to vacate the apartment.

The landlord admitted to the Commission that the complainant had been a very good tenant. He stated that he personally did not object to her. He feared, however, that his tenants were upset because she had Negro visitors.

The Commission offered to explain the law to the tenants whereupon the landlord discontinued eviction proceedings. A letter was sent to the Commission and to the complainant containing assurances that the landlord would in the future conform to the fair housing practice law.

Public Housing

Studies of occupancy and the methods of tenant selection of various Public Housing Authorities are made each year.

This year the following Housing Authorities were studied:

- | | |
|--------------|----------------|
| 1. Boston | 6. New Bedford |
| 2. Brockton | 7. Pittsfield |
| 3. Cambridge | 8. Plymouth |
| 4. Falmouth | 9. Springfield |
| 5. Holyoke | 10. Worcester |

BOSTON HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Broadway	941	10	12	14
Camden Street	72	72	72	71
Commonwealth	639	18	18	17
Faneuil	258	2	2	2
Fairmount	202	0	0	0
Archdale	288	8	5	6
Orient Heights	353	4	5	4
Gallivan Boulevard	251	0	0	0
Franklin Field	504	19	20	20
South Street	132	0	0	0
Total	3,640	133	134	134

FEDERAL PROGRAM

		1957	1958	1959
Charlestown	1,117	0	3	3
Mission Hill	1,019	0	0	0
Lenox Street*	306	306	302	300
Orchard Park	745	93	100	107
South End	498	241	253	255
Heath Street	405	13	15	12
East Boston	411	0	0	0
Franklin Hill Avenue	372	14	16	17
Whittier Street	197	180	185	186
Washington and Beech Streets	274	4	3	3
Mission Hill Extension	567	314	386	440
Bromley Park	690	110	158	163
Columbia Point	1,407	103	137	144
Old Harbor Village	989	0	0	0
Old Colony	847	3	2	2
Total	9,844	1,381	1,560	1,632

*Lenox Street Development has one white family in occupancy.

5 units unoccupied.

BROCKTON HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
	283	6	6	5
FEDERAL PROGRAM		1957	1958	1959
		7	9	7

CAMBRIDGE HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Woodrow Wilson Court	69	3	2	2
Jefferson Park	109	4	6	9

Lincoln Way	60	3	2	2
Roosevelt Towers	228	9	23	20
Jackson Gardens	46	1	0	0
Jefferson Park Extension	200	7	11	11
Total	712	27	44	46

FEDERAL PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Washington Elms	324	38	38	37
Putnam Gardens	123	42	43	44
New Towne Court	294	8	10	9
Corcoran	152	4	3	4
Total	893	92	94	94

FALMOUTH HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Amvets Avenue	50	3	3	4
Mayflower	24	0	0	0
Total	74	3	3	4

HOLYOKE HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Beaudoin Village	219	1	2	1
Minnie R. Dwight Village	42	0	0	0
Total	261	1	2	1
FEDERAL PROGRAM		1957	1958	1959
Jackson Parkway	219	0	0	0
Lyman Terrace	167	1	1	1
Henry Toepfert Apartments	98	0	0	1
Total	484	1	1	2

NEW BEDFORD HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Parkdale	100	3	3	2
Blue Meadows	150	13	13	14
Nashmont	80	0	0	0
Crestview-Westwood (Elderly)	75	2	2	2
Total	405	18	18	18
FEDERAL PROGRAM		1957	1958	1959
Bay Village	200	119	136	139
Presidential Heights	200	3	1	0
Brickenwood	300	24	18	18
Westlawn	200	34	36	41
Total	900	180	191	198

PITTSFIELD HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Wilson Park	126	0	0	0

FEDERAL PROGRAM

Victory Hill	99	0	2	2
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PLYMOUTH HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Olmstead Terrace and Standish Court	40	0	0	0

SPRINGFIELD HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Reed Village	200	13	13	15
Robinson Gardens	136	6	6	3
Duggan Park	196	6	5	10
Carpe Diem	75	1	2	2
Total	607	26	26	30
FEDERAL PROGRAM		1957	1958	
		3	Closed	
Lucy Mallory Village	34			

WORCESTER HOUSING AUTHORITY

STATE PROGRAM	<i>No. of Units Occupied</i>	<i>No. of Non-White Families</i>		
		1957	1958	1959
Curtis Apartments	390	3	3	7
Lakeside Apartments	204	0	0	1
George F. Booth Memorial Apartments	75	0	0	0
Total	669	3	3	8
FEDERAL PROGRAM		1957	1958	1959
		20	20	15
Great Brook Valley Gardens	600			

PUBLIC INFORMATION ACTIVITIES

Inquiries

Exclusive of those who filed complaints 410 individuals visited the Commission office to obtain information concerning their rights and obligations under the provisions of the Civil Rights statutes.

Speaking Engagements

116 speaking engagements were filled during the year by the Commission and staff. These appearances before civic, religious, fraternal and educational organizations enable the Commission to extend the scope of its public information program.

Conferences

The Commission maintains an open-door policy on conferences with individuals and organizations having problems that fall within its jurisdiction.

In carrying out this policy the Commission held 251 conferences with representatives of business, education, minority groups, labor, civic organizations, religious organizations and community relations councils.

Three of the conferences had international overtones. They were held with groups from India, West Africa and Mexico.

The group from India was sponsored by the Young Adult Council of the World Assembly of Youth. The delegation consisted of:

Miss Vailayne Than
Mr. P. T. Kuriakose
Mr. and Mrs. A. J. Bajaj
Mrs. Shav Dav

Mr. Pasikh Gg
Mr. Ranbal Brakh

The delegation from West Africa was made up of representatives of the African Labor Movement. They were:

Mr. Bengora Coulibaly of Sudan
Mr. Damdouna Boubacar of Niger
Mr. Andre Nama of Upper Volta
Mr. Sabin Lalonjo of Dahomey
Mr. Abdul Maham Ba of Senegal

From Mexico came the following officials of the Labor and Social Service Ministry — Conciliation and Arbitration Section:

Fernando *Arispe* — Diaz
Manuel *De La Cera* — Alonso
Andres *Mendez* — Gay
Jesus *Orona* — Tovar
Manuel *Pinnela* — Leon
Antonio *Saracho* — Zapate

Among other conferees from outside of Massachusetts were:

Professor Arthur M. Ross, Director of the Institute of Industrial Relations, University of California; Mr. Richard E. Guggenheim, Chairman, Ohio Civil Rights Commission; Mr. Wilfred C. Leland, Jr., Executive Director, Minnesota State Fair Employment Practices Commission; Senators Paul W. Boyles, Dennis J. Collins, William L. Grindle, and William Lyons, Illinois Commission On Aging and Aged; United States Senator Patrick McNamara, Chairman, Sub-Committee on Problems of the Aging and Aged; and Mr. Antonio Del Rios, Puerto Rican Department of Labor.

Council Activities

The main emphasis this year of the State Advisory Council and the seven regional Councils has been placed on educating the community in regard to the new private housing law. In addition to acquainting community leaders with the provisions of this law, a spot survey of their council activities shows:

1. Surveys of Industrial Concerns

Surveys depend upon cooperation from those concerns being surveyed. Since the passage of the fair employment practice law in 1946, questions *before* employment concerning race, color, religious creed, national origin and ancestry (and since 1950 questions concerning age) are forbidden by the law. After employment these questions may be asked, but in most cases they are not asked except the one dealing with age; and that is necessary in order to establish social security rights.

When a field representative calls upon a concern to inquire if that company is aware of the duties of the Massachusetts Commission Against Discrimination, he makes inquiries concerning the following:

1. Are you familiar with the objectives of the MCAD?
2. Total number of employees in plant?
3. Rate of employee turnover?
4. Employment sources? Unions, Employment Agencies, Direct hiring, others.
5. Approximately how many Negroes are employed?
Approximate number of Negroes applying? If none, why?
In what categories of employment chiefly?
6. Approximately how many minority groups are employed?
Puerto Ricans, others. Approximate number applying?
If none, why?
7. What is average age of employees?
Approximately how many over 45 years of age?
Approximately how many over 45 years of age hired during last year?
Approximately how many applying? If none, why?
8. Have there been any incidents among your personnel involving racial or religious discrimination?
9. Do you have a formal apprenticeship training program?
(This means one registered with the Mass. Division of Apprentice Training)
If not, do you have an on-the-job training program?
(Any training that covers less than 4,000 hours)

10. How many Negro apprentices in the formal apprenticeship program?

On-the-job training?

Approximately how many apply for such training?

Formal apprenticeship program — On-the-job training?

11. How are apprentices selected?

12. Union affiliations?

The person replying cannot refer to written data concerning race, religion, etc., because that is forbidden by the law and so depends upon intelligent estimates. Even so, the purpose of the survey is attained because the representative of the Commission has talked over with the representative of the company matters of importance to both; questions have been answered; Commission material has been left and some degree of mutual acquaintance and understanding has been established.

2. Study of the Effect of Pension Plans Upon the Hiring of Older Workers

A question very often asked of the Commission is, "Why should a company hire an older worker, unless he is most exceptional, when it costs the company more to do so?" The Commission has been trying to determine if this statement is true. Does it cost more? Appreciably more? Is there any pension plan in operation that would not cost more and would protect the older worker as far as his pension is concerned? These are among the questions, answers to which were sought by this study. The Commission believes its conclusions to be still incomplete but from the material on hand, it would seem in reply to the questions raised above that hiring the older worker means setting more money aside according to actuarial tables at the time of hiring than would be necessary if a younger worker were hired. It does not necessarily mean however that ultimately the older worker will cost more. In practically every case he would receive less pension, assuming there is a pension plan. Furthermore, the older worker on the average has a lower accident record. Therefore the cost to the company might not be at all appreciable unless a vast number of older workers were hired simultaneously.

In answer to the question concerning the best pension plan for older workers, it would seem that a pension which the older worker could take with him from one job to another would be best. This has been tried in certain allied industries where a worker may shift from one job to another and the pension plan is transferred as he moves about.

3. Meetings with Realtors, Insurance and Banking Representatives In Regard to the Private Housing Law

Each time the Commission is assigned a new law to administer it tries with the help of its Councils to contact the people and agencies most involved. Housing laws have been passed in rather rapid succession. After the Public Housing Law of 1950 there was an interval of seven years and then appeared in quick succession, (a) the law of 1957 forbidding discrimination in private housing assisted by public money; and (b) the private housing law of 1959.

The Commission has attempted to meet with realtors, bankers, owners and insurance representatives to discuss the impact of these laws. This year the most widely attended meeting was held in Falmouth when the Commission members were guests of the Cape Cod Association of Realtors. 125 members of that Association attended the meeting, listened to an explanation of the private housing law and asked a number of questions. The Commission was delighted by the friendly and cooperative spirit expressed by those present.

4. Study of Urban Redevelopment and Renewal

Urban renewal and redevelopment have been discussed at a number of Council meetings. In some instances, Council members are also members of housing authorities and have been able to keep the Commission very much abreast of what is going on in their particular communities. Beyond the discussion stage, the Commission has not attempted to go. It stands ready to help if its assistance is requested.

5. Attitude of Commission Toward Instances of Stereotyping

An instance of racial stereotyping that proved offensive to a minority group was presented to the Commission this year. It was felt that the local organization involved should (1) try to straighten the matter out on a local level but if it failed to do so, (2) the Commission stood ready to assist through its council members in that vicinity and if that failed, (3) through a general meeting called by the Commission. This is a general policy of the Commission in instances of this type.

6. Study of Holding Power of High Schools Regarding Students

Previous studies of the time when Negro students left school have tended to show that many of these students left school as soon as the law permitted. This tendency to drop out has been deplored by schools, the Urban League, the NAACP and other

civic-minded organizations well aware of the fact that a good basic education is more and more necessary in order to succeed in business or the professions. Recent reports seem to show this tendency has been arrested. A composite picture this year based upon reports from councils, parents and schools is very encouraging.

7. Action Taken by "The Searchers"

Councils have sponsored meetings to acquaint students with educational and industrial opportunities. One of the most gratifying responses was reported this year.

Last year a group of young colored students had asked to be organized into a club. This group of young people calling themselves "The Searchers" try to live up to the club's motto of seeking "Truth, Education and Opportunity." Their object: to improve their social and economic position in the world.

Only three years ago they were disoriented and insecure. To them the future held a life of menial jobs with small pay and little security. They were three years younger and consequently that much less mature but the philosophy of defeatism was even then beginning to sow its seeds.

According to a story released by the Cape Cod Standard Times, the field representative for the Massachusetts Commission Against Discrimination assigned to the area saw immediately the need to build a faith in this teen-age element.

The Standard Times article said: "'Searchers' was an apt title for the club and the 12 original members voted on it unanimously. It described perfectly what their philosophy was to be — a search for better things. It was the start of an organization that, three years later has grown to a membership of 49.

"The field representative took the young people in hand. She tried to broaden their outlook. Under her guidance they took periodic examinations, prepared talks, discussed clothes and manners appropriate for business interviews and generally settled down to the examination of practical problems they would face upon graduation from High School.

"The idealism of the club members can best be shown by their latest venture. Last year they conceived the idea of establishing a scholarship, an idea which has been lauded by the principals of Harwich, Barnstable and Dennis-Yarmouth Regional High Schools — the schools which will be recipients of the awards. The scholarships at this time are modest — \$50.00 to a student in the high school of each of the three towns."

The Standard Times states, "The factor that is amazing is the altruism of the club members. They insisted only that the winners be students who had exhibited the greatest effort toward good citizenship in his community . . .

"There is no question about the future of the club. Its success is bound to continue — it is bound to grow."

One of the factors that impressed the field representative is that last year the hiring of colored personnel in "good" jobs reached a new high.

"This is a good sign," she stated. "It means that the young colored man is trying hard to rise out of the doubt and indifference that plagued his older brothers. There is hope for the future."

STATISTICAL SUMMARY

November 10, 1946 to November 30, 1959

COMPLAINTS :

Initiated and received	1700
Closed after formal hearing	3
Closed after investigation and conference	931
Closed for lack of probable cause	557
Closed for lack of jurisdiction	66
Withdrawn	86
Pending investigation and conference	57

INVESTIGATIONS WITHOUT COMPLAINT :

Initiated by the Commission	784
Closed after investigation and conference	621
Closed for lack of probable cause	148
Transferred to complaint	7
Pending investigation and conference	8

REGULATING AND SUPERVISING AGE AMENDMENT :

Pending investigation and conference	16	651
Closed for lack of probable cause	26	
Closed after investigation and conference	609	

TOTAL 3135

NATURE OF COMPLAINTS AND INVESTIGATIONS :

Based upon alleged color discrimination	1171
Based upon alleged religious discrimination	325
Based upon alleged discrimination because of race	48
Based upon alleged discrimination because of national origin	325
Based upon alleged discrimination because of ancestry	36
Based upon alleged discrimination because of age	1230

TYPE OF COMPLAINTS AND INVESTIGATIONS :

Against employers	2466
Against employment agencies	136
Against labor unions	34
Others	60
Public Accommodations	221
Newspaper Advertising	145
Public Housing	14
Fair Educational Practices	9
Publicly Assisted Housing	28
Private Housing	22

A LIST OF CIVIL RIGHTS STATUTES ADMINISTERED BY THE COMMISSION

Chapter 368 of the Legislative Acts of 1946 brought into being the original Fair Employment Practice Commission as well as the Fair Employment Practice Law, Chapter 151B of the General Laws.

AMENDMENTS

Chapter 479 of the Legislative Acts of 1950 changed the name of the Commission to its present one, Massachusetts Commission Against Discrimination, and also increased the scope and jurisdiction of the Commission by placing within its province the administration of the Public Accommodations Statute and the Public Housing Statute.

Chapter 697 of the Legislative Acts of 1950 increased the scope of the fair employment practice statute to include age, defined as 45 to 65.

Chapter 437 of the Legislative Acts of 1953 further defined a place of public accommodation, resort or place of amusement.

Chapter 274 of the Legislative Acts of 1955 provided that any person seeking a bond or surety bond conditioned upon the faithful performance of his duties shall not be required to furnish information as to his race, color, religious creed, national origin or ancestry in applying for such a bond.

Chapter 334 of the Legislative Acts of 1956 provided for the transfer of the jurisdiction of the Fair Educational Practices Law from the Board of Education to the Massachusetts Commission Against Discrimination.

Chapter 426 of the Legislative Acts of 1957 provided that no person or group of persons may be denied the sale, rental or lease of private housing which is publicly assisted, because of their race, creed, color or national origin.

Chapter 239 of the Legislative Acts of 1959 provided that no person may be denied the sale, rental or lease of privately owned housing accommodations in buildings of three or more apartments or developments of ten or more homes contiguously located.

APPENDIX

STATE ADVISORY MEMBERSHIP

John J. Desmond, Jr., *Chairman*, Draper, Sears & Company
 Dr. Gordon W. Allport, Professor of Psychology, Harvard University
 Rt. Rev. Robert P. Barry, LL.D., St. Clement's Church, West Somerville
 Dean Clarence Q. Berger, Brandeis University
 Thomas H. Carens, Massachusetts Electric & Gas Association
 Charles C. Dasey, Retired Manager, Cunard White Star SS Line, Secretary,
 Rotary Club of Boston
 Roland B. Gittelsohn, Rabbi, Temple Israel of Boston
 Judge Jacob J. Kaplan, Former President, Boston Bar Association
 Owen B. Kiernan, Commissioner of Education, Commonwealth of Mass.
 Rt. Rev. Anson Phelps Stokes, Bishop, Protestant Episcopal Diocese of Massachusetts
 Dean Howard Thurman, Marsh Chapel, Boston University

REGIONAL COUNCIL MEMBERSHIP

Berkshire County

Dr. James M. Burns, *Chairman*, Williams College
 Bruno Aron, Festival House, Lenox
 Samuel E. Bloomberg, Attorney at Law, Local Chairman, Anti-Defamation
 League, Adullum Lodge, B'nai B'rith

Nathaniel S. Brown, General Manager, Advance Publishing Co., Inc.
 Lincoln S. Cain, Partner in the Law firm of Cain, Chesney, Lewis & Humphrey
 John E. Coughlin, Painters' Union No. 94, Pittsfield
 Bruce Crane, Crane & Company, Dalton
 John F. Downing, Pittsfield
 J. Howard Fryer, Pittsfield
 W. Rankin Furey, President, Berkshire Life Insurance Company
 David L. Gunn, Berkshire County Branch NAACP
 The Rev. Andrew B. Jones, Rector, St. Paul's Episcopal Church, Stockbridge
 S. Harley Jones, President, E. D. Jones Corporation, Pittsfield
 Henry Kullas, Manager, Berkshire Joint Board, Textile Workers Union of America, AFL-CIO
 Albert L. Litano, Pittsfield
 Hans K. Maeder, Director, The Stockbridge School, Interlaken
 Emil Metropole, Realtor, President, Berkshire County Real Estate Board
 Feland A. Nevers, D.D.S., NAACP
 George A. Newman, Attorney
 William J. Nolan, Vice President & Secretary, Sprague Electric Co.
 Arthur Burnham Phinney, Unitarian Church, Pittsfield
 Miss L. Alberta Pierce, Berkshire County Branch NAACP
 Mrs. Henry N. Rollinson, Berkshire County Branch NAACP
 Jay C. Rosenfeld, Pittsfield
 James M. Rosenthal, Attorney
 Dr. Edward J. Russell, Superintendent of Schools, Pittsfield
 Samuel Sass, Pittsfield
 Paul A. Tamburello, Attorney, United States Commissioner
 Frank T. Walker, 2nd Vice President, New England Regional NAACP
 LaFayette W. Walker, NAACP

Boston

Carl J. Gilbert, *Chairman*, Chairman of the Board, The Gillette Co.
 Professor Norman H. Abbott, Director of Placement, Boston University
 Julius Bernstein, Executive Secretary, Mass. AFL-CIO Civil Rights Committee
 Frederic C. Church, Senior Partner, Boit, Dalton & Church
 John V. Connolly, Business Manager, Boston Photo Engravers' Union No. 3
 Hubert L. Connor, Director of Apprenticeship, Division of Apprentice Training, Department of Labor & Industries
 Norris G. Davis, Davis Funeral Home
 John E. Deady, Secretary-Treasurer, Building & Construction Trades Council of the Metroplitan District
 William H. Eastman, Second Vice President, John Hancock Mutual Life Insurance Company
 Stephen W. Fardy, Executive Secretary, Allied Printing Trades Council
 Harold D. Hodgkinson, Chairman of the Board, Filene's
 Ernest A. Johnson, Building & Construction Trades Council of Metropolitan District
 Kenneth J. Kelley, Secretary-Treasurer, Mass. State Labor Council, AFL-CIO
 Stephen E. McCloskey, Executive Secretary, Greater Boston Massachusetts Labor Council, AFL-CIO
 Cornelius W. Owens, Vice President, Personnel, New England Telephone & Telegraph Company
 Thomas A. Pappas, President, C. Pappas Company, Inc.
 Leonard T. Peters, Executive Vice President, Peters Employment Service
 Sidney R. Rabb, Chairman of the Board, Stop & Shop
 Paul T. Rothwell, Chairman of the Board, Bay State Milling Company
 Arthur Seserman, Executive Secretary, Boston Branch, National Metal Trades Association
 F. Frank Vorenberg, President, Gilchrist Company
 Leslie E. Woods, Labor Advisor, Raytheon Manufacturing Company

Cape Cod

Dr. Lewis Paul Todd, *Chairman*, Editor, "Social Education"

Harold L. Baker, Chief of Police, Falmouth
 Harvard H. Broadbent, Superintendent of Schools, Hyannis
 Montcrief Cochran, Counsellor, Orleans High School
 Norman H. Cook, Executive Secretary, Cape Cod Chamber of Commerce, Hyannis
 Manuel Corey, Jr., Falmouth
 Charles A. Coyle, Director, Massachusetts Hotel Association
 Very Rev. Leonard J. Daley, Pastor, St. Francis Xavier Church, Hyannis
 Miss Eugenia Fortes, Hyannis
 Mrs. Roma M. Freeman, Physical Education & Science Teacher, Barnstable Junior High School
 Mrs. Walter H. Garrison, Hyannis
 Joseph Gomes, Osterville
 Jack Gravier, Falmouth
 Malcolm R. Hobbs, Publisher of "The Cape Codder"
 George A. Hough, Jr., Editor & Publisher, "The Falmouth Enterprise"
 Joseph Indio, Editor & Publisher, "Nantucket Town Crier"
 Allan F. Jones, Contractor
 James H. Kennedy, Manager, Division of Employment Security
 John C. Linehan, Principal, Barnstable Junior High School, Hyannis
 Mrs. Benjamin T. Livingston, Inter-group Understanding, The Hyannis Woman's Club
 Thomas F. McKeon, Store Manager, Chairman Retail Division Board of Trade
 Harry S. Merson, Superintendent, Falmouth Public Schools
 Ben Morton, Secretary, Chamber of Commerce, Martha's Vineyard
 Mrs. Lillian Olsen, Treasurer, Hyannis Cooperative Bank
 John Pena, Contractor, Cape Verdian Club, State Board of Agriculture
 Sydney G. Pierce, Superintendent of Schools, Eastham, Orleans, Wellfleet
 Thomas Roderick, Teen-Age group coordinator, Hyannis
 Rev. Carl Fearing Schultz, D.D., Minister, The Federated Church of Hyannis
 Mrs. Ruth Schuman, Attorney at Law, Hyannis
 Miss Mary G. Shea, Correspondent, "Dennis-Yarmouth Register"
 Frank Simmons, Sr., Builder, East Falmouth
 Warren Sperr, Assistant Treasurer, Cape & Vineyard Electric Co.
 Rabbi Harold Spivack, Cape Cod Synagogue, Hyannis
 Frederick M. Sylvia, Falmouth
 Richard F. Tobin, Public Relations, Coonamesset Inn, Falmouth
 Mrs. Minna Witt, Proprietor, Admiral Hotel

New Bedford

Fred W. Steele, *Chairman*, Legislative Agent & Counsel for the Massachusetts Textile Industry
 Mrs. Valentina N. Almeida, Principal Clerk, City Auditor's Office
 Samuel Barnett, Special Justice, Third District Court, Bristol County
 Henry A. Bartkiewicz, Attorney, Secretary, Polish Relief Committee of New Bedford
 Walter W. Bonner, New Bedford High School
 James M. Buckley, Director of Adult Civic Education, New Bedford School Department
 George E. Carignan, President, Greater New Bedford & Cape Cod Labor Council
 Joaquim A. Custodio, Traffic Manager, Modern Venetian Blinds, New Bedford
 Joseph Dawson, Jr., President & Treasurer, Knowles Loom Reed Works, Inc.
 Duncan A. Dottin, President, New Bedford Branch NAACP
 Joseph P. Duchaine, Industrialist, New Bedford
 Rev. Edmund G. Francis, SS.CC., Pastor, St. Mary's Church, Fairhaven
 The Rev. Edward A. Hailes, Union Baptist Church, New Bedford
 Miss Doris E. Hopkins, Executive Director, YWCA
 Harold Hurwitz, Attorney
 Hyman Krivoff, President & Treasurer, Dartmouth Finishing Corp.
 Miss Ruth B. McFadden, Superintendent of Schools, New Bedford
 George F. McGovern, Works Manager, Revere Copper & Brass, Inc.

Miss Helen McIntyre, Veterans' Employment Representative, Massachusetts
 Division of Employment Security
 Joao R. Rocha, Publisher, Portuguese Daily News, New Bedford
 Fermino J. Spencer, New Bedford School Department
 Mrs. Dorothy B. Stahre, Principal, Charles S. Ashley School, New Bedford
 Joseph A. Sylvia, Jr., Register of Deeds
 The Hon. August C. Taveira
 Dr. Xenophon Thomas, NAACP
 Philip F. Tripp, Executive Director, New Bedford Housing Authority
 John Marcus Williams, Proprietor, Isabella's Beauty Salon
 Donald Zeman, Attorney
 Mrs. Anthony Zielinski, Vice President, Polish National Alliance; Trustee,
 Polish-American Veterans Auxiliary

North Shore

Henry Kozlowski, *Chairman*, Treasurer, Jackson & Phillips, Inc.
 Chester R. Arnold, Principal, Salem High School
 Anthony Athanas, President, Hawthorne Restaurants, Inc., Lynn
 Mrs. Mary F. Berlyn, Supervisor, Adult Civic Education, Lynn Public Schools
 S. Matthew Carrington, President, Lynn NAACP Chapter
 Abraham Caswell, Treasurer, Caswell-Doucette Shoe Company
 Thomas D. Chatfield, President, Essex Trust Company
 Thomas J. Curtin, Director of Civic Education, Massachusetts Department of
 Education
 Mrs. Solomon Feldman, Jewish Federation of Greater Lynn
 Abraham Glovsky, Attorney; B'nai B'rith
 Mrs. Charles F. Haywood, Chief Librarian, Lynn Public Library
 Dr. Francis L. Keane, Lynn Public Schools
 John M. Lilly, General Secretary, YMCA, Lynn
 Lawrence G. McGinn, Superintendent of Schools, Lynn
 Mrs. Marcia L. Memmott, Director, Women's Division, Massachusetts Depart-
 ment of Commerce
 Chester C. Nemphos, Legislative Agent & Member, Civil Rights Committee,
 Local 201, IUE-CIO
 Mrs. William H. Nesbit, The Lynn Daily Evening Item
 Norman J. Randell, Manager, Plant Community Relations, General Electric Co.
 Theodore Regnante, Chairman, Board of Trustees, Lynn Public Library
 Armand J. St. Laurent, Funeral Director, Lynn
 Dr. William D. Washington, Lynn
 William A. Welch, Superintendent of Schools, Peabody

Springfield

Charles V. Ryan, Attorney, *Chairman*
 Mrs. Richard B. Anderson, Community Council, Public Affairs Committee
 Archie Burack, Treasurer & General Manager, Industrial Buildings Corporation
 Miss Clarace E. Galt, Head Psychiatric Social Worker, Child Guidance Clinic
 of Springfield, Inc.
 George C. Gordon, Gordon Gibbs Associates
 Mrs. Muriel A. Griffin, President, The McKnight District Improvement Associ-
 ation
 Miss Alice Halligan, Director, Pupil Services and Adult Education, Springfield
 Public Schools
 Robert W. Hutton, Employers' Association of Western Massachusetts
 Dr. Howard P. Kennedy
 Raymond T. King, Attorney, Ely, King, Kingsbury & Corcoran
 A. Benjamin Mapp, Executive Director, Urban League of Springfield
 Bernard H. McMahon, President, Springfield Five Cents Savings Bank
 Roger L. Putnam, Chairman, Package Machinery Company, East Longmeadow
 Mrs. Roger L. Putnam, President & Treasurer, Catholic Scholarships for
 Negroes, Inc., Springfield
 Frederick B. Robinson, Director, Museum of Fine Arts, Springfield

James J. Shea, President, Milton Bradley Company
 Dr. Hans B. C. Spiegel, Community Tensions Center, Springfield College
 Charles Vivenzio, Local 202, IUE-CIO
 Mrs. Malcolm C. Webber, Anti-Defamation League of B'nai B'rith
 Rev. D. Edward Wells, Minister, Mt. Calvary Baptist Church

Worcester

Andrew B. Holmstrom, *Chairman*, Vice President, Norton Company
 Rev. Michael P. Bafaro, Roman Catholic Diocese of Worcester
 Mrs. Lawrence J. Bouchard, Massachusetts Parent-Teacher Association
 Dr. Arthur B. Bronwell, President, Worcester Polytechnic Institute
 Lyscom A. Bruce, Executive Secretary, Greater Worcester Community Chest and Council
 Rev. Hubert C. Callaghan, S.J., Director, Institute of Industrial Relations, Holy Cross College
 Miss S. Virginia Carrier, Executive Director, Worcester YWCA
 Daniel J. Casale, Supervising Manager, Division of Employment Security, Worcester
 Frederic H. Case, Jr., Assistant District Director, Public Relations, United States Steel Corporation
 Thomas E. Christensen, Director of Guidance, Worcester Public Schools
 Dr. Leo T. Doherty, Superintendent of Schools, Worcester
 Donald S. Donnelly, Division of Employment Security
 Samuel J. Donnelly, A. F. of L., Worcester
 Mrs. Linwood M. Erskine, President, YWCA, Worcester
 Mrs. Daniel Farber, Commission on Interracial Policies and Program, National Council, YMCA
 Judge Joseph Goldberg, Chairman, Worcester Area Committee, Anti-Defamation League of B'nai B'rith
 Dr. Ralph L. Holland, Executive Secretary, Greater Worcester Area Council of Churches
 Dr. Howard B. Jefferson, President, Clark University, Worcester
 Mrs. Aura M. Kelliher, Principal Supervisor, Aid to Dependent Children Division, Board of Public Welfare
 Rabbi Joseph Klein, Temple Emanuel, Worcester
 John S. Laws, Interracial Council of Worcester
 Kenneth I. E. Macleod, M.D., M.P.H., Commissioner of Public Health
 Miss Anna Mays, Education Chairman for the New England Regional Conference, NAACP
 Philip M. Morgan, President, Morgan Construction Company
 Mrs. John C. Nicholson, Executive Director, Camp Fire Girls, Inc.
 Mrs. Stanley W. Norwood, Worcester Community Council
 Walter A. Olson, Executive Director, Family Service Organization of Worcester, Inc.
 Harry W. Oswell, Vice President, New England Regional NAACP
 Mrs. Arthur G. Perry, Worcester Council of Mothers' Clubs
 Edson D. Phelps, Second Vice President, State Mutual Life Assurance Company of America
 Mrs. Thomas L. Porter, Second Vice President, Massachusetts State Federation of Women's Clubs
 Mrs. Dorothy L. Salter, Salter Secretarial School, Worcester
 Luther C. Small, Executive Director, Worcester Housing Authority
 Mrs. George E. Spence, Chairman of Scholarship Committee of Women's Service Club of YWCA, Worcester
 Roy H. Stevens, Sub-Area Director, United Steelworkers of America, AFL-CIO
 Dr. Joseph Weinreb, Director, Worcester Youth Guidance Center

**REPORT BY MASSACHUSETTS COMMISSION AGAINST
DISCRIMINATION TO THE SENATE SUBCOMMITTEE
HEARING ON THE PROBLEMS OF THE AGED AND AGING
BOSTON, MASSACHUSETTS**

OCTOBER 13 AND 14, 1959

In 1950 the original Fair Employment Practice law in Massachusetts was amended to include age. Age was defined in this amendment as "An Act relative to discrimination against employees and persons seeking employment between forty-five and sixty-five years of age." When this age amendment was incorporated in the original law, Section 4 of that law was revised to read: "Section 4. It shall be an unlawful employment practice:

"1. For an employer, by himself or his agent because of the race, color, religious creed, national origin, *age* or ancestry of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.

"2. For a labor organization, because of the race, color, religious creed, national origin, *age* or ancestry of any individual to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer, unless based upon a bona fide occupational qualification.

"3. For any employer or employment agency to print, or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry or record in connection with employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religious creed, national origin, *age* or ancestry or any intent to make any such limitation, specification or discrimination, or to discriminate in any way on the ground of race, color, religious creed, national origin, *age* or ancestry, unless based upon a bona fide occupational qualification.

"4. For any person, employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified or assisted in any proceeding under section five.

"5. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so."

Paragraph 5. under Section 1 was revised to read:

"5. The term 'employer' does not include a club exclusively social, or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized for private profit, nor does it include any employer with fewer than six persons in his employ, but shall include the commonwealth and all political subdivisions, boards, departments, and commissions thereof *in all respects except with respect to age.*"

These changes mark to our way of thinking the most significant changes resulting from the age amendment.

It is the feeling of the Commission that the greatest help given by this law to the older worker has been in regulating and supervising the age amendment through (1) checking help wanted ads appearing in the classified sections of Massachusetts newspapers to see if there are any specifications of age either direct or indirect and (2) checking application for employment blanks to see if there are any questions relative to age. In either instance if such specifications or questions occur the Commission requests that they be deleted. This has been done promptly in every case.

The number of advertisements in violation of the law has decreased markedly in the last few years. In the beginning there was a terrific emphasis on youth. Now

NOTE: The words in italics are those added to the original law by the age amendment.

the advertisements specify job qualifications such as "keen eyesight," "nimble fingers" or specify job titles. A more detailed reference is made to this checking of advertising in the annual report of 1950 - 1951 and annual report of 1952 - 1953.

In 1955, five years after the passage of the amendment, the Commission began spot checking application blanks to discover if there were some in violation of the law in that they requested information about age before the applicant was hired. (After hiring this information may be acquired). The record of Commission initiated complaints based on violative application blanks is as follows:

COMMISSION INITIATED AGE COMPLAINTS:

Beginning March, 1955

<i>Year</i>	<i>Number</i>
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1955	124
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1956	194
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1957	181
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1958	135
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1959	66
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In every case the application blank was corrected by deletion of the question or substitution of the following statement: "State age if under twenty-one."

The number of complaints made by individuals who came to the Commission because they believed they had been discriminated against because of age numbers 78 in a ten year period.

PERSONAL COMPLAINTS BASED ON AGE AND HOW SETTLED SINCE NOV., 1950

<i>Year</i>	<i>No.</i>	<i>LOPC</i>	<i>AIC</i>	<i>LOJ</i>	<i>W</i>	<i>O</i>
1950	2			2		
1951	14	7	7			
1952	8	4	3		1	
1953	4	3	1			
1954	8	5	2	1		
1955	12	7	3		2	
1956	7	3	3		1	
1957	10	4	3	1	2	
1958	8	1	7			
1959	5	2		1		2
	<hr/> 78					

Legend:

LOPC	Lack of Probable Cause
AIC	After Investigation & Conference
LOJ	Lack of Jurisdiction
W	Withdrawn
O	Open

Additional material is attached comprised of quotes from Commission Annual Reports and three case histories.

EXCERPTS FROM ANNUAL REPORTS OF MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION CONCERNING AGE AMENDMENT

(From Annual Report, 1950 to 1951)

The Commission members met with representatives of industry, labor, insurance companies, the Massachusetts Employment Service, private employment agencies, newspapers and lawyers to discuss its new responsibility with regard to discrimination in employment on account of age (45-65).

As a result of its meeting with the members of the Massachusetts Newspaper Information Service, the chairman of the MNIS sent out the following letter:

February 3, 1951

To Classified Advertising Managers:

Be careful of advertisements specifying age of prospective employees. Last October 30 there became effective a new state law prohibiting discrimination in employment of persons between the age of 45 and 65. After the law was passed, it became the task of the Massachusetts Commission Against Discrimination to carry out enforcement.

If the employer can prove that the age requirement is necessary, he is exempted from the provisions of the law. This type of exemption is called a "bona fide job qualification."

The Commission has pointed out that newspapers become parties to violation of the law if they carry advertising that mentions age in connection with jobs for which there is no "bona fide job qualification."

We urge that you have your ad takers watch out for help wanted ads mentioning age. The ad taker should ask the prospective employer if the age requirement is a job qualification under the meaning of the law. If the prospective employer answers in the affirmative, the paper is legally covered, the Commission assures us.

If the job qualification of age is in violation of the law, the paper becomes a party to any complaint that may be issued. Remember, however, it is up to the prospective employer to meet the provisions of the law. If he has any questions about age requirements in a job advertisement, he can call the Commission Against Discrimination at Capitol 7-3111 or write to the Commission at 41 Tremont Street, Boston 8, Massachusetts. The law does not apply to domestic help nor to persons or businesses employing less than six people.

If you have any questions about this law and its application to your newspaper, write or call either John R. Herbert, Chairman, Massachusetts Newspaper Information Service, c/o Quincy Patriot Ledger, Quincy 69, Massachusetts, or Gardner Campbell, Secretary, c/o Wakefield Daily Item, Wakefield, Massachusetts.

The Commission evolved a combination of educational-regulatory work to carry out the age amendment. The field staff was assigned to check thoroughly the help-wanted columns in the newspapers for advertisements for "young" men or women, general ads calling for "girls" or "boys", or for ads with age limitations affecting the 45-65 age bracket. Letters went to each employer so advertising, advising him that he could submit to the Commission certain job classifications he felt should be exempted from the age law for bona fide reasons, and the Commission would pass on each individual case upon its merits.

The larger Boston metropolitan dailies (those with large classified ad sections) as a public service cooperated with the Commission in running advertisements calling attention to the age amendment.

(From Annual Report, 1951 to 1952)

During 1951 the question arose whether Chapter 697 of the Acts of 1950, amending Chapter 151B of the General Laws and prohibiting discrimination in employment against persons solely because they are between the ages of 45 and 65, applied to employees under pension or retirement plans which provide for their involuntary discharge between the same ages.

To clarify this point, Senate No. 200 of 1959, was filed with the last session of the Legislature by a member of the public. Senate 200 would have amended Chapter 697 by the addition of the following sentence: — "This act shall not apply to termination of employment because of the terms or conditions of any retirement or pension plan."

The proposed change was passed by the Legislature but vetoed by the Governor and his veto was sustained.

Subsequently, MCAD published a memorandum setting forth its position on the effect of the age amendment on retirement or pension plans. Paragraph V and VI of this memorandum follows:

- V. "The effect of the refusal of the Legislature to finally enact into law the said Senate Bill, No. 200, impels this Commission to rule that it was the intention of the Legislature that the amendment as to discrimination on account of age should be effective even though there is a retirement or pension plan in existence calling for the retirement of an employee arriving at an age of between 45 and 65 years.
- VI. "Under the above circumstances and in view of the action of the Legislature in refusing to enact into law the said Senate Bill, No. 200, this Commission rules that any provision in a retirement or pension plan calling for retirement of employees who are between 45-65 years of age is ineffective even though such retirement plan was made prior to the 1950 Act becoming a law. This Commission, therefore, rules that any such termination of employment of employees between the ages of 45-65 is void and of no effect, and any action of termination of employment because of such a provision is a violation of Chapter 151B, Section 4, Subdivision I, and is a violation of that law."

(The above paragraphs are predicated on the assumption that any termination of employment is based *solely* on age.)

(From Annual Report, 1952 to 1953)

The Commission's educational-regulatory policy to prevent discrimination against employees and persons seeking employment between forty-five and sixty-five years of age was continued during the past year. The field staff checked advertisements in the help wanted column of the newspapers throughout the state for ads that were contrary to the provisions of the age amendment. The violative ads (if not based on bona fide occupational qualification) were classified by the Commission into two categories; those specifying age indirectly such as "young" men or women, "boys" or "girls" and those specifying age directly by requests for age itself, or limiting persons to a particular age bracket such as "between 20 and 35 years."

Certain job descriptions such as "errand boy" "stock boy" "office girl," etc., have been ruled as non-discriminatory by the Commission because they are classed as occupational titles by the United States Department of Labor.

A form letter was sent to each employer advertising for an employee or employees in a manner which might be contrary to the law. This letter contained a copy of the ad, the name of the newspaper and the day and month it appeared. The letter also stated:

"On October 30, 1950, Chapter 697 of the Acts of 1950 became effective. This law prohibits discrimination in employment against persons between forty-five and sixty-five years of age, unless based upon a bona fide occupational qualification. The advertisement above may be a violation of this law.

"This Commission is charged with the enforcement of this law.

"It is not the policy of this Commission to file a complaint without inquiry. There may be legal reason for the form of that advertisement in that it may be a bona fide qualification, or it is possible that you are unaware of the law and of its requirements. Therefore, this letter is sent to you calling your attention to this matter with the request that you inform this Commission as to why you specified age directly or indirectly. If you claim that the age specification is based upon a bona fide occupational qualification, your reply should also contain a statement of the facts upon which you base this claim.

"Your prompt cooperation concerning this matter will be appreciated."

Eighty-six of the employers contacted requested exemptions from the law on claims of bona fide occupational qualifications. Such requests were acted upon by the Commission members and exemptions were allowed or not, according to the individual merits of each case. Thirty-seven exemptions were granted. In these thirty-seven matters a majority of the Commissioners determined that the age of the persons to be hired was a qualification for the job under consideration.

The forty-nine employers who were denied exemptions by the Commission were so notified and have abided by that decision.

The hundreds of other employers contacted who did not ask for an exemption have sent letters to the Commission stating that in the future their advertising would be so worded that it would not violate the law.

As a result of the reported procedure a considerable improvement has been noted. It is evidenced by the decreasing number of discriminatory advertisements concerning age. Some of these advertisements are legal since they are based on bona fide occupational qualifications, but those that are not, must be eliminated as references in advertising to race, color, religious creed, national origin and ancestry have been eliminated.

(From Annual Report, 1953 to 1954)

The educational-regulatory policy instituted by the Commission when it was given the additional duty to administer Chapter 697 of the Legislative Acts of 1950 (age amendment) was continued during the past year.

Periodic checks were made of the help wanted advertisements of all the daily and weekly newspapers published in the Commonwealth. Notices were sent to 326 employers and employment agencies bringing to their attention specific violations and requesting a statement as to the reasons for specifying age directly or indirectly.

316 of those contacted pleaded ignorance of the law, and stated in writing their compliance with the law in future help wanted advertising.

Ten business organizations requested an exemption based on the premise that age constituted a bona fide occupational qualification.

Exemptions were granted to six and four requests were disapproved.

(From Annual Report, 1954 to 1955)

The educational-regulatory policy instituted by the Commission when it was given the additional duty to administer Chapter 697 of the Legislative Acts of 1950 (age amendment) was continued during the past year.

Periodic checks were made of the help wanted advertisements of all the daily and weekly newspapers published in the Commonwealth. Notices were sent to 786 employers and employment agencies bringing to their attention specific violations and requesting a statement as to the reasons for specifying age directly or indirectly.

735 of those contacted pleaded ignorance of the law, and stated in writing their compliance with the law in future help wanted advertising.

51 business organizations requested an exemption based on the premise that age constituted a bona fide occupational qualification. Five of these requests were approved.

(From Annual Report, 1955 to 1956)

Periodic reviews were made of the "help wanted" advertisements of all the daily and weekly newspapers published in the Commonwealth.

Notices were sent to 1046 employers and employment agencies bringing specific violations to their attention. The notices required a written answer as to the reasons for specifying age directly or indirectly.

994 of those receiving notices, to date, claimed the law violation was inadvertent and pledged that in the future their advertising would conform to the statute as it relates to advertising and hiring.

55 employers requested exemptions under this age amendment, claiming that age was a bona fide job qualification. The Commission approved four such requests for exemption.

(From Annual Report, 1956 to 1957)

Notices were sent to six hundred and seventy-three (673) employers and employment agencies bringing to their attention violations of the age amendment to the fair employment practice statute. The violations appeared in help wanted advertisements in the classified sections of the daily newspapers.

The notices required a written answer to determine whether the age specification for the job advertised came within the category of a bona fide occupational qualification.

Thirty-two (32) employers requested exemptions declaring age to be a bona fide occupational qualification.

In no instance was there sufficient evidence furnished to warrant the granting of an exemption.

(From Annual Report, 1957 to 1958)

The Commission employs a system of screening help wanted advertisements of Massachusetts newspapers for possible violations of the age amendment.

Notices are sent to the employers and employment agencies specifying the violations noted and requesting written answers for determination as to whether the age specification was based on a bona fide occupational qualification.

422 such notices were sent out during the past year. Eighteen employers requested exemptions on the ground that age was a bona fide job qualification. All of the exemption requests were refused for lack of sufficient evidence to warrant the granting of an exemption.

THREE CASE HISTORIES DEALING WITH DISCRIMINATION IN EMPLOYMENT BASED ON AGE

1.

The complainant, a woman age 51, applied and was interviewed for a position as secretary.

At the conclusion of the interview, which was conducted by three officials of the respondent, the complainant was told that her qualifications were excellent and that she probably would be chosen for the job.

The following day an official of the respondent company telephoned the complainant and asked for her age, declaring that she should have answered the age inquiry when filling out the employment application form. Complainant demurred stating that it was against the law for an employer to inquire into the age of an applicant prior to employment. The respondent official is alleged to have stated that he didn't care about any law; he wanted the missing information. The complainant gave her age.

Approximately four weeks later, not having heard from the company, complainant called and was told that the position had been filled by a young girl.

Investigation of the complaint substantiated the allegation that the complainant was denied employment because of her age.

Probable cause having been found the terms of conciliation were as follows:

A. That the respondent inform all personnel interviewing applicants for employment that age should not be used as a job qualification and that no inquiry, direct or indirect, should be made with reference to age prior to employment.

B. That the employment application form used by the respondent be changed to conform with the fair employment practice law by deleting the inquiry "Date of Birth."

C. That the complainant be employed in the position for which she applied.

2.

In February of this year a complaint was filed with the Commission by a woman, age 60, employed in a large plant located in Central Massachusetts.

The allegation of the complaint was that the respondent had refused to allow her to exercise seniority rights, solely because of her age, in transferring to a job for which she was qualified. The request for the transfer was precipitated by a lay-off then being put into effect throughout the plant.

Investigation revealed that the job to which she had requested a transfer was a job which she had performed previously although on a temporary basis for eight months prior to the lay-off.

The investigation further revealed that a much younger woman, having less service with the respondent than the complainant, had been assigned to the job.

In addition, it was developed that 90% of the work in the section of the plant to which the transfer request was made was done by females so that the contention of the respondent that the work was too heavy for the complainant did not in and of itself establish the physical requirements for the job.

A meeting was held in the office of the Commission at which all parties in interest and their attorneys were present. The meeting, informal in nature, was conducted by the investigating commissioner, who guided both sides to present the pertinent facts of the case.

Enough facts having been produced to substantiate the allegation contained in the complaint, the investigating commissioner successfully accomplished a conciliation of

the complaint and the complainant was returned to the job to which she had requested transfer and with no loss of seniority rights.

3.

The complainant, a woman 56 years of age, applied for light assembly work at the respondent company, in answer to a newspaper advertisement. She was informed by the personnel manager that the company did not have a job which she could do. She asked for an opportunity to prove her ability and was informed that her employment application form had supplied sufficient information.

In the prior interview, the personnel manager had informed the complainant, if she passed a manual dexterity test, she would be hired. She completed the test and was informed by the person administering it that she had passed with the "highest possible mark." She contacted the company a number of times in person and by telephone. Each time she was informed there was no employment for her.

The complainant charged the respondent company with discrimination against her in denying her employment because of her age.

Investigation revealed that the respondent company employed several hundred persons. The rate of turnover of employees was approximately ten per week. Members of minority groups were employed in various capacities. Records used prior to employment conformed to the law.

According to the personnel director, a number of jobs had been vacant since the complainant's original application. However, these jobs were in production and the complainant was not qualified for such work.

Investigation of company records revealed that in the period since the complainant's application to the date of her complaint to the Commission, a period of five months, 100 female employees had been hired in production. The majority of the new production employees were recent high school graduates without previous experience.

A review of the complainant's employment application form and record at the Commission office revealed that she had six years' experience in production work, and one additional year in a similar industry.

The personnel director denied that he had told the complainant that if she passed the manual dexterity test she would be hired. He added that all, except former employees, must take the test before being considered for employment. He denied that the respondent discriminated against the complainant because of her age, pointing out two employees, one 41 years of age and another 45. He insisted that the work at the respondent required good eyesight, dexterity, and in some instances was tedious and dangerous. Therefore, due to the nature of the business, the majority of the employees were young girls.

The respondent's representative stated that the complainant's age was not the reason she was not hired. He added that he would re-interview the complainant and attempt to place her with the company.

The following day he contacted the Commission stating he had interviewed the complainant and found her to be a very satisfactory prospect and he would attempt to employ her shortly.

A short time later the complainant contacted the Commission stating that she had been employed by the respondent. She added that she was very pleased with the position she held.